

Final

**RHODE ISLAND SUPREME COURT  
ETHICS ADVISORY PANEL  
Opinion 98-06 - Request 742  
Issued February 19, 1998**

**Facts:**

The inquiring attorney proposes to send a memorandum to existing clients who have not paid their legal bills, notifying them that the inquiring attorney will charge a stated interest on amounts due if payments are not made within sixty days of the notice.

**Issue Presented:**

The inquiring attorney asks whether he/she may charge interest on overdue accounts without a prior agreement with the client.

**Opinion:**

The Rules of Professional Conduct do not prohibit the inquiring attorney from charging clients interest on unpaid balances for legal services previously rendered provided that he/she complies with the applicable laws governing the charging of interest and provided further that in the absence of a prior agreement, clients receive advance notice with a reasonable opportunity to pay the balance without interest.

**Reasoning:**

The Rules of Professional Conduct do not expressly address the charging of interest on unpaid balances for legal services. The overriding ethical obligation under the Rules is that a lawyer's fee shall be reasonable. See Rule 1.5(a). Most ethics committees have followed ABA Formal Opinion 338 (1974) which provided that charging interest on delinquent accounts is proper when the client has agreed to pay such interest. See ABA/BNA Lawyers' Manual on Professional Conduct at 41:602 (1990 Supp.); see also, Calif. State Bar Standing Comm. on Prof. Responsibility Op. 1980-53 (1980); Ohio State Bar Comm. on Legal Ethics Op. 35 (1981). Phil. Bar Assoc. Prof. Guidance Comm. Op. 81-77 (1981); Tex. State Bar Prof. Ethics Comm. Op. 409 (undated). Several ethics committees, however, have found that the practice is proper without the prior agreement with the client provided that the client is given advance notice and the opportunity to pay the balance due without interest. See Disciplinary Bd. of Georgia State Bar Op. 45 (1985); Mass. Bar Assoc. Ethics Comm. Op. 83-1 (1983). This Panel aligns with those ethics committees that permit attorneys to charge interest on unpaid legal bills in the absence of a prior agreement with the client. Such charges are not unreasonable additions to the legal fee, but rather are the reasonable consequences of nonpayment.

The Panel therefore concludes that the inquiring attorney's charging of interest is not prohibited by the Rules of Professional Conduct provided that he/she complies with applicable law, and provided further that in the absence of a prior agreement by the client to pay such interest, the client receives advance notice with a reasonable opportunity to pay the balance due without interest.